HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 28506 of 1998

Dated 8th June, 2007

Between

B.Lateef Saheb and ors

…Petitioners

and

Srikalahasti Municipality, rep. By its Commissioner,
Srikalahasti, Chittoor Dist

…Respondent.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 28506 of 1998

ORDER:

In this Writ Petition, the petitioners have questioned the final notices issued by the Commissioner, Srikalahasti Municipality for eviction of the petitioners from the places where they are doing business in vending of vegetables.

It is the case of the petitioners that no licence is required under the provisions of the A.P. Municipalities Act 1965 for doing business in vending vegetables and as per the provision under Section 263 of the A.P. Municipalities Act, 1965, vegetables are not notified in Schedule IV to Section 263 of the Act.

At the stage of admission, this Court has passed interim order on 13-10-1998 and the said order continued all along.

Though Writ Petition is of the year 1998, no counter affidavit is filed.

Under Section 263 of the A.P. Municipalities Act 1965, the Municipal Council is empowered to publish a notification in the prescribed manner that no place within the municipal limits or at a distance of three kilometers of such limits shall be used for any one or more of the purposes specified in Schedule IV without the licence of the Commissioner and except in accordance with the conditions specified therein. From a reading of the above said provision, it is clear that even municipal council is empowered to publish a notification prohibiting usage of any place for the purposes specified in the Schedule without obtaining the licence and confining the place for usage for the purposes specified in Schedule IV to Section 263 of the Act. Though it is the specific case of the petitioners that the business in vending vegetables is not notified, the same is not controverted by filing any counter affidavit. Further, I have perused the Schedule IV to Section 263 of the Act, wherein business in vending of vegetables is not specified in the said schedule. In that view of the matter, impugned notices are liable to be set aside.

Accordingly, notices dated 5-10-1998 issued to the petitioners for stopping of their business of vending vegetables in their premises are set aside. But, however, it is made clear that if the said purposes are notified in the Schedule subsequent to the filing of the Writ Petition, this order will not preclude the respondent to issue fresh notice and pass appropriate orders.

The Writ Petition is allowed to the extent indicated above. No

order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 08-06-2007.
Msnr.